Claims 1-9 and 11-20 are pending in the present application. Claim 10 is canceled herein. Claims 1 and 13 have been amended. No new matter has been added.

Drawings have been objected to under 37 CFR § 1.83(a). A replacement for Figure 7 has been provided to address this objection. In addition paragraph 56 has been amended to comply with the amended drawing. In particular, the transistor is now shown in Figure 7.

Claims 1-4 and 6-20 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Zavracky, *et al.* (U.S. Patent No. 4,674,180, hereinafter "Zavracky"). Moreover, claims 1-4, 6-9, and 12-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Miles, *et al.* (U.S. Patent Application Publication No. 2004/0058532 A1, hereinafter "Miles '532") in view of Sugahara, *et al.* (U.S. Patent No. 6,618,034 B1, hereinafter "Sugahara"). Applicant respectfully traverses this rejection.

Claim 1 has been amended to include the limitations of claim 10. As a result no new issues are raised and entry of the amendment is proper.

The combined claims 1 and 10 recites "wherein the characteristic hysteresis curves differing from the first MEMS element to the second MEMS element are designed such that the hysteresis curve having a smaller width is located fully within the width of the hysteresis curve having the larger width."

Zavracky does not teach or suggest that a hysteresis curve having a smaller width is fully located within the width of the hysteresis curve having the larger width. Rather, Zavracky shows a signature encoding system where each successive micromechanical shunt circuit element has a slightly higher closure threshold voltage. The signature of the

signature encoding system is (permanently) set by selectively opening the fusible links. To interrogate (and not to set) the signature, a ramped DC voltage is applied. Furthermore, nothing in Zavracky shows that the MEMS elements are <u>designed</u> such that the hysteresis curves with the smaller width are <u>fully</u> located within the hysteresis curves with the larger width.

Miles, neither singly nor in combination with Sugahara, teaches or suggests that a hysteresis curve having a smaller width is fully located within the width of the hysteresis curve having the larger width. Nothing in Miles or Sugahara suggests that the MEMS elements are <u>designed</u> such that the hysteresis curves with the smaller width are <u>fully</u> located within the hysteresis curves with the larger width. Hence claim 1 is allowable.

Claims 2-9, 11, and 12 depend from claim 1 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as adding new limitations.

Claim 13 has been amended to include the limitations of claim 10. As a result no new issues are raised and entry of the amendment is proper.

The combined claims 10 and 13 recites "wherein the characteristic hysteresis curves differing from the first MEMS element to the second MEMS element are designed such that the hysteresis curve having a smaller width is located fully within the width of the hysteresis curve having the larger width."

Zavracky does not teach or suggest that a hysteresis curve having a smaller width is fully located within the width of the hysteresis curve having the larger width . Rather, Zavracky shows a signature encoding system where each successive micromechanical shunt circuit element has a slightly higher closure threshold voltage. The signature of the

signature encoding system is (permanently) set by selectively opening the fusible links. To interrogate (and not to set) the signature, a ramped DC voltage is applied. Furthermore, nothing in Zavracky shows that the MEMS elements are _designed_ such that the hysteresis curves with the smaller width are _fully_ located within the hysteresis curves with the larger width.

Miles, neither singly nor in combination with Sugahara, teaches or suggests that a hysteresis curve having a smaller width is fully located within the width of the hysteresis curve having the larger width. Nothing in Miles or Sugahara suggests that the MEMS elements are _designed_ such that the hysteresis curves with the smaller width are _fully_ located within the hysteresis curves with the larger width. Hence claim 13 is allowable.

Claims 14-20 depend from claim 13 and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as adding new limitations.

In view of the above, Applicant respectfully submits that this response complies with 37 C.F.R. § 1.116. Applicant further submits that the claims are in condition for allowance. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicant's attorney at the number listed below. The Commissioner is hereby authorized to charge any fees that are due, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

_11/19/08_
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